



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON
ATTORNEY GENERAL

December 24, 1957

Honorable J. W. Edgar
Commissioner of Education
Texas Education Agency
Austin, Texas

Opinion No. WW-335

Re: Does House Bill 216, Acts
55th Legislature, Regular
Session, 1957, Chapter 69,
page 159, replace and/or
supersede the sparse area
clause in Section 1 of
Article 2922-13, Vernon's
Civil Statutes, and related
questions.

Dear Dr. Edgar:

You have requested our opinion on the following
questions:

1. Does House Bill 216, Acts 55th Legislature,
Chapter 69, page 159, replace and/or supersede the
sparse area clause in Section 1 of Article 2922-13,
Vernon's Civil Statutes?

2. If the answer is negative, and we have two
sparse area statutes:

- a. Does the Commissioner have discretion
as to the number of professional units
allotted under Section 1 of Article
2922-13, or is he obligated to allocate
as many as the district had in 1948-49?
- b. If the Commissioner has discretion, may
he use the same formula to allot profes-
sional units to all districts as that
which he prescribed under the provisions
of House Bill 216?

The two pertinent statutory provisions read as follows:

Article 2922-13, Vernon's Civil Statutes, Section 1,

§ 4:

"Provided further, that any school district
containing one hundred (100) square miles or more
and having fewer than one (1) pupil per square mile,

and which is now equipped with school facilities to maintain, and is now operating and maintaining a four-year accredited high school, may be allotted by the State Commissioner of Education as many professional units as were provided during the school year 1948-1949; provided that the State Commissioner of Education shall take into consideration the density and distribution of population in the district, road conditions, and the proximity of the school to another four-year accredited high school in making such allotments."

House Bill 216, Acts 55th Legislature, Regular Session, 1957, Chapter 69, page 159, Section 1, reads as follows:

"Section 1. Any school district containing one hundred (100) square miles or more and having fewer than one (1) pupil per square mile, and which operates and maintains a four-year accredited high school may be allotted by the State Commissioner of Education for Foundation School Program Act and Fund purposes the number of professional units determinable as earned by the application of a sparse area formula approved by the State Board of Education; provided that the State Commissioner of Education shall take into consideration the density and distribution of population in the district, road conditions, and the proximity of the school to another four-year accredited high school in making such allotments."

From reading the above sections, it is our opinion that neither of the above sections is a mandatory provision; that both of said sections are designed to give the Commissioner of Education discretionary powers to relieve teacher shortage in sparse area schools.

Therefore, we answer your questions as follows:

First, the State of Texas has two sparse area statutes as quoted above, which statutes stand together and are to be used at the discretion of the Commissioner of Education.

Secondly, neither of the above sections is mandatory, and the Commissioner of Education may use either section in allotting extra professional units to sparse area schools.

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S U M M A R Y

Texas has two sparse area statutes, Section 1, Article 2922-13, Vernon's Civil Statutes, and House Bill 216, Acts 55th Legislature, R. S., 1957, Chapter 69, page 159. The Commissioner of Education may apply whichever of these statutes he deems desirable, at his discretion.

Very truly yours,

WILL WILSON
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By *Galloway Calhoun, Jr.*
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GC: jl

APPROVED:

OPINION COMMITTEE
Geo. P. Blackburn, Chairman

J. C. Davis, Jr.

Leonard Passmore

REVIEWED FOR THE ATTORNEY GENERAL

BY: James N. Ludlum